

2000 No. 1054

PENSIONS

**The Pension Sharing (Pension Credit Benefit)
Regulations 2000**

<i>Made</i> - - - -	<i>13th April 2000</i>
<i>Laid before Parliament</i>	<i>19th April 2000</i>
<i>Coming into force</i>	<i>1st December 2000</i>

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The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 68D, 101C(2), 101D(1)(b), (2)(b) and (4)(b), 101E(2), 101F(2)(b), (c), (3)(b), and (6)(b), 101H(2)(a) and (b), and (3), 101I, 101J(2), 101L(1), (2)(a) and (b), and (3), 101P(2)(b), 101Q, 181(1)(a) and 182(2) and (3) of the Pension Schemes Act 1993(b), sections 10(2)(b), 124(1)(c) and 174(2) and (3) of the Pensions Act 1995(d), and sections 40(1) and (3) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999(e) and of all other powers enabling him in that behalf, after consulting such persons as he considered appropriate(f), hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Sharing (Pension Credit Benefit) Regulations 2000 and shall come into force on 1st December 2000.

(2) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993;

“the 1995 Act” means the Pensions Act 1995;

“the 1999 Act” means the Welfare Reform and Pensions Act 1999;

▶¹“the 2004 Act” means the Pension Act 2004;◀

“the Taxes Act” means the Income and Corporation Taxes Act 1988(g);

“active member”, in relation to an occupational pension scheme, means a person who is in pensionable service under the scheme;

▶²◀

▶³◀

“base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the base rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

▶⁴◀

▶³◀

“eligible member” has the meaning given by section 101P(1) of the 1993 Act(h);

“employer” has the meaning given by section 181(1) of the 1993 Act;

▶⁵◀

“the Inland Revenue” means the Commissioners of Inland Revenue;

“member” means a member of an occupational pension scheme or a personal pension scheme and includes an eligible member;

¹Defn. of “the 2004 Act” inserted by para. 11(2) of Sch. 3 to S.I. 2005/3377 as from 30.12.05.

²Defn. of “appropriate scheme” omitted by reg. 13 of S.I. 2011/1245 as from 6.4.12.

³Defns. of “the Board for Actuarial Standards” & “effective date” omitted by para. 7(a) of Sch. 2 to S.I. 2008/1050 as from 1.10.08.

⁴Defn. of “contracted-out rights” omitted by art. 19 of S.I. 2011/1246 as from 6.4.12.

⁵Defn. of “incapacity” omitted by reg. 15(2)(a) of S.I. 2009/615 as from 6.4.09.

(a) S. 181(1) is cited because of the meaning there given to “prescribed” and “regulations”.

(b) 1993 c. 48. Ss. 101C, 101D, 101E, 101F, 101H, 101I, 101J, 101L, 101P and 101Q are inserted by s. 37 of the Welfare Reform and Pensions Act 1999 (c. 30).

(c) S. 124(1) is cited because of the meaning there given to “prescribed” and “regulations”.

(d) 1995 c. 26.

(e) 1999 c. 30.

(f) See s. 120(1) of the Pensions Act 1995 and section 83(11) of the Welfare Reform and Pensions Act 1999.

(g) 1988 c. 1.

(h) S. 101P is inserted by s. 37 of the Welfare Reform and Pensions Act 1999.

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¹Defn. of “money purchase contracted-out scheme” omitted by reg. 13 of S.I. 2011/1245 as from 6.4.12.

“money purchase benefits” has the meaning given by section 181(1) of the 1993 Act(a)

▶¹◀

“money purchase scheme” has the meaning given by section 181(1) of the 1993 Act;

“normal benefit age” has the meaning given by section 101B of the 1993 Act(b);

“occupational pension scheme” has the meaning given by section 1 of the 1993 Act;

“overseas arrangement” has the meaning given by regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996(c);

“overseas scheme” has the meaning given by regulation 1(2) of the Contracting-out (Transfer and Transfer Payment) Regulations 1996(d);

“pension credit benefit” has the meaning given by—

(a) section 101B of the 1993 Act insofar as that expression is used in Part II of these Regulations; and

(b) section 101P of the 1993 Act insofar as that expression is used in Part III of these Regulations;

“pension credit rights” has the meaning given by—

(a) section 101B of the 1993 Act insofar as that expression is used in Part II of these Regulations; and

(b) section 101P of the 1993 Act insofar as that expression is used in Part III of these Regulations;

“pensionable service” has the meaning given by section 124(1) of the Pensions Act 1995(e);

“personal pension scheme” has the meaning given by section 1 of the 1993 Act(f);

“principal appointed day” has the meaning given by section 7(2B) of the 1993 Act(g);

“qualifying occupational pension scheme” has the meaning given by section 40(3) of the 1999 Act;

“qualifying scheme” has the meaning given by section 101P(1) of the 1993 Act;

²Defn. of “the reference banks” substituted by art. 592 of S.I. 2001/3649 as from 1.12.01.

▶²“the reference banks” means the seven largest persons for the time being who—

(a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;

(b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and

(c) quote a base rate in sterling;

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end of year accounts last published before that time;◀

³Words substituted in the defn. of “Regulatory Authority” by reg. 15(2)(b) of S.I. 2009/615 as from 6.4.09.

“Regulatory Authority” means the ▶³Pensions Regulator◀;

⁴Defn. of “safeguard rights” omitted by reg. 8(2) of S.I. 2009/598 as from 6.4.09.

“relevant pension” means a pension to which section 40(2) of the 1999 Act applies;

▶⁴◀

(a) S. 181 was amended by the 1995 Act, the Industrial Tribunals Act 1996 (c. 17) and is amended by the Welfare Reform and Pensions Act 1999.

(b) S. 101B is inserted by s. 37 of the Welfare Reform and Pensions Act 1999.

(c) S.I. 1996/1462 as amended by S.I. 1997/786.

(d) The defn. of “overseas scheme” was amended by S.I. 1997/786.

(e) S. 124 is amended by para. 61 of Sch. 12 to the Welfare Reform and Pensions Act 1999.

(f) The defn. of “personal pension scheme” is amended by para. 3(1)(a) of Sch. 2 to the Welfare Reform and Pensions Act 1999.

(g) S. 7(2B) was inserted by s. 136(1) of the Pensions Act 1995.

“salary related contracted-out scheme” has the meaning given by section 8(1)(a)(i) of the 1993 Act^(a);

“scheme” has the meaning given by section 101B of the 1993 Act^(b);

“statement of entitlement” means the statement of the amount of the cash equivalent of an eligible member’s pension credit benefit under a qualifying scheme referred to in section 101H(1) of the 1993 Act;

“transfer credits” means rights allowed to a person under the rules of an occupational or personal pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme (including any transfer credits allowed by that scheme);

“transfer notice” has the meaning given by section 101F(7) of the 1993 Act;

►¹“the Transfer Values Regulations” means the Occupational Pension Schemes (Transfer Values) Regulations 1996;◀

“trustees or managers” has the meaning given by section 46(1) of the 1999 Act;

“valuation date” has the meaning given by section 101J(7) of ►²the 1993 Act;◀

►²“valuation day” has the meaning given in section 29(7) of the 1999 Act.◀

►³(3) The definition of “the reference banks” in paragraph (2) must be read with–

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.◀

¹Defn. of “the Transfer Values Regulations” inserted by para. 7(a) of Sch. 2 to S.I. 2008/1050 as from 1.10.08.

²Words substituted in defn. of “valuation date” and defn. of “valuation day” inserted by reg. 6(2)(b) & (c) of S.I. 2003/1727 as from 4.8.03.

³Reg. 1(3) inserted by art. 592 of S.I. 2001/3649 as from 1.12.01.

Salary related schemes

2. For the purposes of Chapter II of Part IVA of the 1993 Act^(c) (requirements relating to pension credit benefit - transfer values) and these Regulations, an occupational pension scheme is salary related if it is not a money purchase scheme and it is not a scheme–

(a) the only benefit provided by which (other than money purchase benefits) are death benefits; and

(b) under the provisions of which no member has accrued rights (other than rights to money purchase benefits).

PART II

PENSION CREDIT BENEFIT UNDER OCCUPATIONAL PENSION SCHEMES

►⁴Pension credit benefit in lump sum form

3. For the purposes of section 101C(2) of the 1993 Act (basic principle as to pension credit benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of pension credit benefit in the form of a lump sum before normal benefit age are–

(a) those which permit payment of a lump sum in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004 (lump sum rule); or

(b) that the lump sum payment is–

(i) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));

⁴Regs. 3 substituted by reg. 9 of S.I. 2009/2930 as from 1.12.09.

(a) Section 8(1)(a)(i) was substituted by section 136(2) of the Pensions Act 1995.

(b) Section 101B is inserted by section 37 of the Welfare Reform and Pensions Act 1999.

(c) Part IVA is inserted by section 37 of the Welfare Reform and Pensions Act 1999.

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- (ii) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; and
- (iii) made to or in respect of a member. ◀

¹Regs. 4 substituted by reg. 15(3) of S.I. 2009/615 as from 6.4.09.

4. ▶¹◀**Means of assuring pension credit benefit**

5.—(1) The prescribed means by which a person's pension credit benefit under a scheme must be assured for the purposes of section 101D(1)(b) of the 1993 Act (form of pension credit benefit and its alternatives) is by means of a transaction to which section 19 of the 1993 Act (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts) applies.

(2) A transaction referred to in paragraph (1) must satisfy the requirements of regulation 12, 13 or 14 (discharge of liability where pension credit benefit or alternative benefits are secured by insurance policies or annuity contracts, conditions on which insurance policies and annuity contracts may be commuted, or other requirements applying to insurance policies and annuity contracts).

(3) Where a transaction referred to in paragraph (1) applies, the insurance policy must be taken out, or the annuity contract must be entered into, with an insurance company which is—

- ▶¹(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.

¹In reg. 5 sub-paras. 3(a) & (b) & para. 4 substituted for 3(a)-(c) & 4 by art. 593 of S.I. 2001/3649 as from 1.12.01.

(4) Paragraph (3)(a) and (b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.◀

Alternatives to pension credit benefit

6.—(1) The prescribed alternatives to pension credit benefit which a scheme may provide for the purposes of section 101D(2) of the 1993 Act are described in regulations 7 to 9.

(2) For the purposes of section 101D(4)(b) of the 1993 Act, the cases in which the alternatives described in regulations 7 to 9 may be provided without the consent of the person entitled to the benefit are described in regulations 7(4) and 8(4).

Early retirement or deferred retirement

7.—(1) Subject to paragraph (2), the scheme may provide benefits which are different from those required to constitute pension credit benefit in respect of the—

- (a) amount;
- (b) recipient; and
- (c) time at which the benefits are payable.

▶²(2) The benefits referred to in paragraph (1) must include a benefit that is both—

- (a) payable to the person entitled to the pension credit benefit; and
- (b) not payable before normal benefit age except where the person entitled to the benefit has either—
 - (i) met the ill-health condition in accordance with paragraph 1 of Schedule 28 to the Finance Act 2004 (registered pension schemes - defined benefits and money purchase arrangements - ill-health condition) immediately before that person became entitled to the benefits; or
 - (ii) attained normal minimum pension age as defined in section 279(1) of that Act (other definitions).◀

²Reg. 7(2) & (3) and words in reg. 7(4) substituted & reg. 7(6) omitted by reg. 15(4)(a)-(c) of S.I. 2009/615 as from 6.4.09.

(4) Benefits consisting of, or including, a benefit that becomes payable to the person entitled to the benefit before normal benefit age may be provided without that person's consent where—

- (a) that person's earning capacity is destroyed or seriously impaired by ▶²physical or mental infirmity◀; and
- (b) in the opinion of the trustees or managers of the scheme, the person entitled to the benefit is incapable of deciding whether it is in his interests to consent.

(5) Any scheme rule that allows the alternative described in this regulation must require the trustees or managers of the scheme to be reasonably satisfied that, when the benefit of the person entitled to the benefit becomes payable, the total value of the benefits to be provided under this regulation is at least equal to the amount described in regulation 11 (value of alternatives to pension credit benefit).

(6) ▶²◀.

Reg. 8**Bought out benefits**

8.—(1) The scheme may provide for benefits different from those required to constitute pension credit benefit to be appropriately secured by a transaction to which section 19 of the 1993 Act applies (discharge of liability where guaranteed minimum pensions are secured by insurance policies or annuity contracts).

(2) Any scheme rule that allows the alternative described in this regulation must require the trustees or managers of the scheme to be reasonably satisfied that, except where paragraph (3) applies, the payment made to the insurance company is at least equal to the amount described in regulation 11.

(3) The exception to paragraph (2) is where the person entitled to the benefit is requiring the trustees or managers to provide the alternative by exercising his right to give a transfer notice under section 101F of the 1993 Act (power to give transfer notice).

(4) A scheme may allow the alternative described in this regulation to be provided without the consent of the person entitled to the pension credit where—

- (a) the person entitled to the pension credit will be able to assign or surrender the insurance policy or annuity contract on the conditions set out in regulation 3 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997^(a) (conditions on which policies of insurance and annuity contracts may be assigned or surrendered); and
- (b) the requirements of paragraph (5) are satisfied.

(5) The requirements of this paragraph are that—

- (a) the scheme is being wound up; or
- (b) the trustees or managers of the scheme consider that, in the circumstances, it is reasonable for the scheme to provide the alternative without the consent of the person entitled to the benefit and the requirements of paragraph (6) are satisfied.

(6) The requirements of this paragraph are that all the conditions set out in subparagraphs (a) and (b) are satisfied, namely—

- (a) the trustees or managers of the scheme give the person entitled to the benefit at least 30 days' written notice of their intention to take out the insurance policy or enter into the annuity contract unless the person entitled to the benefit exercises a right to give a transfer notice under section 101F of the 1993 Act (the first mentioned notice being ¹given in accordance with regulations 26 to 28 (giving information and documents) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013¹ or delivered to that person personally); and

¹Words in reg. 8(6)(a) substituted by para. 8(2) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

(a) S.I. 1997/784.

- (b) when the trustees or managers of the scheme agree with the insurance company to take out the insurance policy or enter into the annuity contract, there is no outstanding transfer notice by the person entitled to the benefit under section 101F of the 1993 Act.

(7) For the purposes of this regulation “appropriately secured” means secured by an insurance policy or annuity contract to which regulation 5 applies.

Money purchase benefits

9.—(1) The scheme may, with the consent of the person entitled to the benefit, provide money purchase benefits instead of all or any of the benefits that constitute pension credit benefit.

(2) Any scheme rule which allows this alternative must require the trustees or managers of the scheme to be reasonably satisfied that the amount allocated to provide money purchase benefits in respect of the person entitled to the benefit is at least equal to the amount described in regulation 11.

Transfer of a person’s pension credit rights without consent

10.—(1) For the purposes of section 101D(4) of the 1993 Act (form of pension credit benefit and its alternatives), the trustees or managers of an occupational pension scheme may provide for a person’s pension credit rights under that scheme to be transferred to another occupational pension scheme without that person’s consent where the conditions set out in paragraphs (2) and either (3) or (7), as the case may be, are satisfied.

(2) The condition set out in this paragraph is that the trustees or managers of the transferring scheme consider that, in the circumstances, it is reasonable for the transfer to be made without the person’s consent and the requirements of paragraph (5) are satisfied.

►¹(3) The condition set out in this paragraph is that, subject to paragraph (6)–

- (a) the relevant actuary gives a certification, by completing the certificate in the Schedule, in relation to the person’s pension credit rights in the receiving scheme;
- (b) the relevant actuary sends that certificate to the trustees or managers of the transferring scheme;
- (c) the transfer takes place within 3 months of the date of the relevant actuary’s signature in the certificate; and
- (d) there are no significant changes to the benefits, data and documents used in making the certificate (see the benefits, data and documents specified in the certificate) by the date on which the transfer takes place.◀

(4) For the purpose of ►¹making the certification in paragraph 2 of the certificate in the Schedule◀, the relevant actuary shall, in considering whether there is good cause, have regard to all the circumstances of the case and in particular–

- (a) to any established custom of the receiving scheme with regard to the provision of discretionary benefits or increases in benefits; and
- (b) to any announcements made with regard to the provision of such benefits under the receiving scheme.

(5) The requirements of this paragraph are that all the conditions set out in sub-paragraphs (a) and (b) are satisfied, namely–

- (a) the trustees or managers of the scheme give the person with pension credit rights at least 30 days’ written notice of their intention to transfer those rights to another occupational pension scheme unless the person with those rights exercises a right to give a transfer notice under section 101F of the 1993 Act (the first mentioned notice being ►²given in accordance with regulations 26 to 28 (giving information and documents) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013◀ or delivered to that person personally); and

¹Reg. 10(3) & words in sub-para. (4) substituted by reg. 6(2)(a) of S.I. 2011/672 as from 6.4.11.

²Words in reg. 10(5)(a) substituted by para. 8(3) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

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- (b) when the trustees or managers of the scheme agree with the trustees or managers of the receiving scheme to transfer those rights, there is no outstanding transfer notice by the person with pension credit rights under section 101F of the 1993 Act.

(6) Paragraph (3) does not apply where the whole of the pension credit rights to be transferred are derived from rights accrued in a money purchase scheme.

(7) The condition set out in this paragraph is that any scheme rule which allows the transfer of a person's pension credit rights derived from rights accrued in a money purchase scheme without the consent of the person with those rights must require the trustees or managers of the scheme to be reasonably satisfied that the amount transferred is at least equal to the amount described in regulation 11.

- (8) In this regulation—
“relevant actuary” means—

- (a) where the transferring scheme is a scheme for which an actuary is required under section 47 of the 1995 Act (professional advisers) to be appointed, the individual for the time being appointed in accordance with subsection (1) of that section as actuary for that scheme;
- (b) in any other case, a Fellow of the ¹Institute and Faculty of Actuaries[◀], or a person with other actuarial qualifications who is approved by the Secretary of State, at the request of the trustees or managers of the scheme, as being a proper person to act for the purposes of this regulation in connection with the scheme.

¹Words in reg. 10(8)(b) substituted by reg. 10 of S.I. 2012/692 as from 6.4.12.

²Para. (9) of reg. 10 omitted by reg. 8(3) of S.I. 2009/598 as from 6.4.09.

- (9) ²◀.

Value of alternatives to pension credit benefit

11. The amount referred to in regulations 7, 8 and 9 is an amount equal to the value of the benefits (or, where the alternative is provided by way of partial substitute for pension credit benefit, the relevant part of the benefits) that have accrued to or in respect of the person entitled to the benefit.

Discharge of liability where pension credit benefit or alternative benefits are secured by insurance policies or annuity contracts

12. The requirements which must be met for the purposes of section 101E(1)(c) of the 1993 Act (discharge of liability where pension credit or alternative benefits are secured by insurance policies or annuity contracts) are those described in regulations 13 and 14.

Conditions on which pension credit benefit secured by insurance policies and annuity contracts may be commuted

13. Pension credit benefit secured by an insurance policy or an annuity contract may be commuted ³in the circumstances described by regulation 3 (pension credit benefit in lump sum form)[◀].

³Words substituted in reg. 13 by reg. 15(5) of S.I. 2009/615 as from 6.4.09.

Other requirements applying to insurance policies and annuity contracts

- 14.** The requirements described in this regulation are—

- (a) that the insurance company with which the insurance policy is taken out or the annuity contract is entered into assumes an obligation to the person entitled to the benefit or to the trustees of a trust for the benefit of the person entitled to the benefit and, if appropriate, dependants of his, to pay the benefits secured by that policy or contract to him or, as the case may be, to dependants of his, or to the trustees of such a trust; and

- (b) that the insurance policy or annuity contract contains, or is endorsed with, terms so as to provide for any increase, which would have been applicable as a consequence of section 40 of the 1999 Act (indexation: other pension schemes) had the discharge of liability of the pension credit benefit, or its alternative, not taken place, to apply to the benefits which have become secured or been replaced by that policy or contract.

Further conditions on which liability may be discharged

15.—(1) Subsection (1)(b) of section 101E of the 1993 Act (transactions with the consent of the person entitled to the benefit which discharge liability where pension credit or alternative benefits secured by insurance policies or annuity contracts) shall not apply in the circumstances described in paragraph (2), (3), (4) or (5).

(2) The circumstances described in this paragraph are that—

- (a) the person entitled to the benefit is dead and the benefit is payable to a person other than his ►¹widow, widower, or surviving civil partner◄; and
- (b) the arrangement for securing the pension credit benefit or its alternative was made at the request of the person entitled to it.

¹Words substituted in reg. 15(2)(a) by para. 5 of Sch. 1 to S.I. 2005/2877 as from 5.12.05.

(3) The circumstances described in this paragraph are that the benefit is provided as an alternative to pension credit benefit by virtue of regulation 8(4) (bought out benefits without consent).

(4) The circumstances described in this paragraph are that—

- (a) the scheme is being wound up;
- ²(b) the winding up provisions (as defined in section 73B(10)(a) of the 1995 Act) and regulations made under those provisions do not apply;◄
- (c) the person entitled to the benefit is able to assign or surrender the insurance policy or the annuity contract; and
- (d) the condition set out in section 101E(1)(a) of the 1993 Act is satisfied.

²Reg 15(4)(b) substituted by reg. 18(2) of S.I. 2005/706 as from 6.4.05.

(5) The circumstances described in this paragraph are that—

- (a) the trustees or managers of the scheme consider that, in the circumstances, it is reasonable for the scheme to provide the alternative without the consent of the person entitled to the benefit;
- (b) the trustees or managers of the scheme give the person entitled to the benefit at least 30 days' written notice of their intention to take out the insurance policy or enter into the annuity contract, unless the person entitled to the benefit exercises a right to give a transfer notice under section 101F of the 1993 Act (power to give transfer notice) (the first mentioned notice being ►³given in accordance with regulations 26 to 28 (giving information and documents) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013◄ or delivered to that person personally); and
- (c) when the trustees or managers of the scheme agree with the insurance company to take out the insurance policy or enter into the annuity contract, there is no outstanding transfer notice given by the person entitled to the benefit under section 101F of the 1993 Act.

³Words in reg. 15(5)(b) substituted by para. 8(4) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

(6) The payment made to the insurance company in the circumstances described in paragraph (5) must be at least an amount equal to the value of the pension credit benefit which has accrued to the person entitled to the benefit at the date the payment is made.

PART III

TRANSFER VALUES

¹Regs. 16-19 omitted by reg. 8(4)(a)-(d) of S.I. 2009/598 as from 6.4.09.

²Words substituted in reg. 20, word inserted in reg. 21(a) & reg. 21(b) deleted by reg. 8(5) & (6)(a) & (b) of S.I. 2009/598 as from 6.4.09.

³Words in reg. 21(1)(c) omitted and para. (2) substituted by art. 18(4)(a) & (b) of S.I. 2006/744 as from 6.4.06.

⁴Words substituted in reg. 21(3) & reg. 22(1)(a) omitted by reg. 8(6)(c) & (7) of S.I. 2009/598 as from 6.4.09.

⁵Words omitted & inserted in reg. 22(1)(b) by reg. 15(6)(a) & (b) of S.I. 2009/615 as from 6.4.09.

16.-19. ►¹◄

Requirements to be met by annuities

20. ►²The prescribed◄ requirements referred to in section 101F(2)(b) of the 1993 Act (cash equivalent to be used for purchasing annuities) are those specified in regulation 15(2) to (7) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(a) (disqualification as a destination for pension credit annuity contracts and insurance policies).

Requirements of other pension arrangements

21.—(1) The prescribed requirements referred to in section 101F(2)(c) and (3)(b) of the 1993 Act (cash equivalent of pension credit benefit to be used to subscribe to other pension arrangements which satisfy prescribed requirements) are that the pension arrangement to which it is proposed to subscribe—

- (a) is an overseas arrangement;►²or◄
- (b) ►²◄
- (c) if the scheme from which rights are transferred is of a kind described in ►³◄ paragraph (2), satisfies the requirements of the Inland Revenue.

►³(2) The kinds of scheme mentioned in paragraph (1)(c) is a scheme which is registered under section 153 of the Finance Act 2004.◄

(3) The prescribed circumstances referred to in section 101F(2)(c) and (3)(b) of the 1993 Act are those referred to in ►⁴paragraph 1(c)◄.

Requirements to be met by an eligible scheme

22.—(1) The prescribed requirements referred to in section 101F(6)(b) of the 1993 Act (references to an eligible scheme which satisfies the prescribed requirements) are that—

- (a) ►⁴◄
- (b) if the scheme from which pension credit rights are transferred or from which a transfer payment of such rights is made is of a kind described in ►⁵◄ of paragraph (2) of regulation 21, the eligible scheme to which pension credit rights are transferred or to which a transfer payment in respect of those rights is made is ►⁵also◄ of a kind described in paragraph (2) ►⁵◄ of regulation 21.

(2) In this regulation “eligible scheme” means a scheme described in section 101F(6) of the 1993 Act.

Statements of entitlement

23.—(1) Subject to paragraph (2), for the purposes of subsection (2)(a) of section 101H of the 1993 Act (salary related schemes: statements of entitlement), the prescribed period beginning with the date of the eligible member’s application under that section for a statement of entitlement is a period of 3 months.

(a) S.I. 2000/1053.

(2) Where the trustees or managers of the scheme are for reasons beyond their control unable within the period referred to in paragraph (1) ►¹◄ to calculate the cash equivalent, the prescribed period is such longer period as they may reasonably require ►¹◄, provided that such longer period does not exceed 6 months beginning with the date of the eligible member's application.

¹Words omitted in reg. 23(2) and reg. 24 substituted by paras. 7(b) & (c) of Sch. 2 to S.I. 2008/1050 as from 1.10.08.

(3) For the purposes of subsection (2)(b) of section 101H of the 1993 Act, the prescribed period is the period of 10 days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday) ending with the date on which the statement of entitlement is provided to the eligible member.

(4) For the purposes of subsection (3) of section 101H of the 1993 Act, an eligible member who has made an application under section 101H(1) of the 1993 Act for a statement of entitlement may not, within a period of 12 months beginning on the date of that application, make any further such application unless the rules of the scheme provide otherwise or the trustees or managers allow him to do so.

►¹Manner of calculation and verification of cash equivalents

24.—(1) Subject to paragraph (2), cash equivalents are to be calculated and verified in accordance with regulations 7 to 7E of the Transfer Values Regulations as appropriate.

(2) When calculating and verifying the case equivalent, those Regulations are to be read as if—

- (a) in regulation 1(2) (interpretation), there were inserted at the appropriate alphabetical places—
 - ““eligible member” has the meaning given by section 101P(1) of the 1993 Act (interpretation)(a);”;
 - and
 - ““valuation date” has the meaning given by section 101J(7) of the 1993 Act (time for compliance with transfer notice(b));”;
- (b) in regulation 7(1) (manner of calculation and verification of cash equivalents—general provisions), for “paragraphs (4) and (7)” there were substituted “paragraphs (4), (7) and (8)”;
- (c) in regulation 7 to 7C and Schedule 1A, references to “member” were references to “eligible member”;
- (d) after regulation 7(7), there were inserted—
 - “(8) cash equivalent are to be calculated and verified in relation to the valuation date.”;
- (e) in regulation 7A(2), the reference to “guarantee date” was a reference to “valuation date”;
- (f) paragraphs 7 and 9 of Schedule 1A were omitted; and
- (g) in paragraph 12 of Schedule 1A, the words “a cash equivalent mentioned in section 93A of the 1993 Act, before the guarantee date” were “a cash equivalent such as is mentioned in section 101H of the 1993 Act, before the valuation date”.◄

Time period for notification to the Regulatory Authority of failure by the trustees or managers of an occupational pension scheme to comply with a transfer notice

25. The period prescribed for the purpose of section 101J(4)(a) of the 1993 Act (time for compliance with transfer notice) is the period of 21 days beginning with the day immediately following the end of the period for compliance specified in section 101J(1) of that Act.

(a) Section 101P was inserted by section 37 of the Welfare Reform and Pensions Act 1999.

(b) Section 101J was inserted by section 37 of the Welfare Reform and Pensions Act 1999.

Extension of time limits for payment of cash equivalents

26. The Regulatory Authority may grant an extension of the period mentioned in section 101J(1)(a) of the 1993 Act to the trustees or managers of an occupational pension scheme if the trustees or managers have within that period applied to the Regulatory Authority for an extension and—

- (a) the Regulatory Authority is satisfied that—
 - (i) the scheme is being wound up or is about to be wound up;
 - (ii) the scheme is ceasing to be a contracted-out scheme;
 - (iii) the interests of the members of the scheme generally will be prejudiced if the trustees or managers do what is needed to carry out what is required within that period;
 - (iv) the eligible member has not taken all such steps as the trustees or managers can reasonably expect in order to satisfy them of any matter which falls to be established before they can properly carry out what the eligible member requires;
 - (v) the trustees or managers have not been provided with such information as they reasonably require properly to carry out what the eligible member requires; or
 - (vi) the eligible member's statement of entitlement has been reduced or increased under regulation 27 or 28 or the eligible member has disputed the amount of the cash equivalent;
- (b) the provisions of section 53 of the 1993 Act^(a) (supervision: former contracted-out schemes) apply; or
- (c) an application has been made for an extension on one or more of the grounds specified in paragraph (a) or (b) and the Regulatory Authority's consideration of the application cannot be completed before the end of the period mentioned in section 101J(1)(a) of the 1993 Act.

¹Reg. 27 omitted by para. 7(d) of Sch. 2 to S.I. 2008/1050 as from 1.10.08.

27. ▶¹◀**Increases and reductions of cash equivalents once the statement of entitlement has been sent to the eligible member**

28.—(1) This regulation applies to a cash equivalent when a statement of entitlement has been sent to an eligible member of a salary related scheme by the trustees or managers of that scheme.

(2) Where all or any of the benefits to which the cash equivalent relates have been surrendered, commuted or forfeited before the date on which the trustees or managers do what is needed to carry out what the eligible member requires, that part of the cash equivalent which relates to the benefits so surrendered, commuted or forfeited shall be reduced to nil.

(3) Where a scheme has on or after the valuation date begun to be wound up, a cash equivalent may be reduced to the extent necessary for the scheme to comply with ▶²the winding up provisions (as defined in regulation 27(13) and regulations made under those provisions)◀.

²Words substituted in reg. 28(3) and (4) by reg. 18(9) and (10) of S.I. 2005/706 as from 6.4.05.

(4) If, by virtue of ▶²regulations made under section 73B(4)(b)(i) of the 1995 Act by virtue of section 73B(5) of that Act, the winding up provisions (as so defined) apply◀ to a section of a scheme as if that section were a separate scheme, paragraph (3) shall apply as if that section were a separate scheme and as if the references therein to a scheme were accordingly references to that section.

(5) If an eligible member's cash equivalent falls short of or exceeds the amount which it would have been had it been calculated in accordance with Chapter II of Part IVA of the 1993 Act and these Regulations it shall be increased or reduced to that amount.

(a) S. 53 was amended by para. 48 of Sch. 5 to the Pensions Act 1995 and by paras. 52 and 53 of Sch. 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(6) In a case where two or more of the paragraphs of this regulation fall to be applied to a calculation, they shall be applied in the order in which they occur in this regulation except that where paragraph (5) falls to be applied it shall be applied as at the date on which it is established that the cash equivalent falls short of or exceeds the proper amount.

Increases of cash equivalents on late payment

29.—(1) Subject to paragraph (2), if the trustees or managers of a scheme, having received an application under section 101F(1) of the 1993 Act (power to give transfer notice), fail to comply with the transfer notice within 6 months of the valuation date, the eligible member's cash equivalent, as calculated in accordance with regulations 24, 27 and 28, shall be increased by the amount, if any, by which that cash equivalent falls short of what it would have been if the valuation date had been the date on which the trustees or managers carry out what the eligible member requires.

(2) If the trustees or managers of a scheme, having received an application under section 101H of the 1993 Act, fail without reasonable excuse to do what is needed to carry out what the eligible member requires within 6 months of the valuation date, the eligible member's cash equivalent, as calculated in accordance with regulations 24, 27 and 28, shall be increased by—

- (a) the interest on that cash equivalent calculated on a daily basis over the period from the valuation date to the date on which the trustees or managers carry out what the eligible member requires, at an annual rate of one per cent. above base rate; or, if it is greater,
- (b) the amount, if any, by which that cash equivalent falls short of what it would have been if the valuation date had been the date on which the trustees or managers carry out what the eligible member requires.

Personal pension schemes: increases and reductions of cash equivalents

30.—(1) If the whole or any part of the cash equivalent of the pension credit benefit under section 101F of the 1993 Act has been surrendered, commuted or forfeited before the date on which the trustees or managers comply with the transfer notice, the cash equivalent shall be reduced in proportion to the reduction in the total value of the benefits.

(2) If the trustees or managers of a personal pension scheme, having received a transfer notice under section 101F(1) of the 1993 Act, fail without reasonable excuse to comply with the transfer notice within 6 months of the valuation date, the eligible member's cash equivalent shall be increased by—

- (a) the interest on that cash equivalent, calculated on a daily basis over the period from the date the notice is given until the date on which the trustees or managers carry out what the eligible member requires, at the same rate as that payable for the time being on judgment debts by virtue of section 17 of the Judgments Act 1838(a); or, if it is greater,
- (b) the amount, if any, by which that cash equivalent falls short of what it would have been if the date on which the transfer notice is given had been the date on which the trustees or managers comply with it.

Civil Penalties

31. Where section 10 of the 1995 Act(b) (civil penalties) applies by virtue of section 101H(4) or section 101J(4)(b) of the 1993 Act, the maximum amount for the purposes of section 10(1) of the 1995 Act shall be £1,000 in the case of an individual, and £10,000 in any other case.

(a) 1 & 2 Vic. c. 110; the rate of interest was amended by S.I. 1993/564.

(b) Section 10 is amended by paragraph 11 of Schedule 2 to the Welfare Reform and Pensions Act 1999.

PART IV

INDEXATION

¹Reg. 32 substituted by reg. 7 of S.I. 2013/459 as from 6.4.13.

►¹Increase of relevant pension

32.—(1) Subject to regulations 33 and 34, a relevant pension shall be increased each year by either the appropriate percentage, or, where the rules of an occupational pension scheme require the relevant pension to be increased at intervals of not more than 12 months, the relevant percentage.

(2) A relevant pension shall not be increased under paragraph (1) if, under the rules of the occupational pension scheme, it is for the time being increased, and since the relevant date has always been increased, at intervals of not more than 12 months by at least—

- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme; or
- (b) if lower, the default percentage for that period.

(3) In paragraph (2), “the relevant date” means—

- (a) 1st January 2011 or, if later, the date on which the relevant pension became a pension in payment; or
- (b) if the relevant pension was transferred to the occupational pension scheme from another occupational pension scheme as a pension in payment after 1st January 2011, the date of the transfer.

(4) If the relevant pension was transferred to the occupational pension scheme as mentioned in paragraph (3)(b), paragraph (2) does not apply to the relevant pension unless, immediately before the transfer, paragraph (2) (read with this paragraph if relevant) applied to the relevant pension by reference to the scheme from which it was transferred.

(5) In this regulation the default percentage for a period is the percentage for that period which corresponds to—

- (a) 5 per cent. per annum in a case where—
 - (i) the relevant pension is in payment before 6th April 2005; or
 - (ii) the relevant pension is not in payment before 6th April 2005 but the entitlement to the relevant pension credit arose before that day;
- (b) 2.5 per cent. per annum in a case where the entitlement to the relevant pension credit arises on or after 6th April 2005.

(6) This regulation does not apply to a relevant pension provided to give effect to eligible pension credit rights of a member under a qualifying occupational pension scheme which—

- (a) is a cash balance benefit; and
- (b) first comes into payment on or after 6th April 2013.

(7) In this regulation—

“appropriate percentage” means—

- (a) in a case where entitlement to the relevant pension credit arose before 6th April 2005, the higher revaluation percentage; and
- (b) in a case where entitlement to the relevant pension credit arose on or after 6th April 2005, the lower revaluation percentage,

for the latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the 1993 Act (revaluation of accrued pension benefits) which is in force at the time of the increase (expressions used in this definition having the same meaning as in that paragraph);

“cash balance benefit” has the same meaning as in section 51ZB of the 1995 Act;

“consumer prices index” means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board; or
- (b) where that index is not published for a month, any substituted index or figures published by the Board;

“relevant percentage” means—

- (a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules of the scheme; or
- (b) if lower, the default percentage for that period;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board; or
- (b) where that index is not published for a month, any substituted index or figures published by the Board.◀

Annual increase in rate of pension: qualifying occupational and personal pension schemes

33.—(1) The first increase required by regulation 32 in the rate of a relevant pension must take effect not later than the first anniversary of the date on which the pension is first paid; and subsequent increases must take effect at intervals of not more than 12 months.

(2) Where the first such increase takes effect on a date when the pension has been in payment for a period of less than 12 months, the increase must be of an amount at least equal to one twelfth of the amount of the increase so required (apart from this paragraph) for each complete month in that period.

Effect of increase above the statutory requirement: qualifying occupational pension schemes

34.—(1) Where in any tax year the trustees or managers of a qualifying occupational pension scheme make an increase in a member’s pension which is a relevant pension, not being an increase required by regulation 32, they may deduct the amount of the increase from any increase which but for this paragraph, they would be required to make under that regulation in the next tax year.

(2) Where in any tax year the trustees or managers of such a scheme make an increase in a member's pension which is a relevant pension, and part of the increase is not required by regulation 32, they may deduct that part of the increase from any increase which, but for this paragraph, they would be required to make under that regulation in the next tax year.

(3) Where by virtue of paragraph (1) or (2) any such pension is not required to be increased in pursuance of regulation 32, or not by the full amount that it otherwise would be, its amount shall be calculated for any purposes as if it had been increased in pursuance of regulation 32 or, as the case may be, by that full amount.

►¹**Definition of eligible pension credit rights**

35.—(1) For the purposes of section 40(3) of the 1999 Act, pension credit rights are eligible if they fall within paragraph (2) and are not excluded by paragraph (3).

(2) Pension credit rights are within this paragraph if—

(a) they are derived from rights attributable to pensionable service on or after 6th April 1997 of the member whose pension rights were the subject of a pension sharing order or provision; ►²◀.

(3) Excluded pension credit rights are—

(a) rights to pensions which are money purchase benefits and which become pensions in payment on or after 6th April 2005; or
(b) rights derived from additional voluntary contributions).◀

¹Reg. 35 substituted by reg. 16 of S.I. 2005/704 as from 6.4.05.

²Reg. 35(2)(b) omitted by reg. 8(8) of S.I. 2009/598 as from 6.4.09.

Signed by authority of the Secretary of State for Social Security.

13th April 2000

Jeff Rooker
Minister of State,
Department of Social Security

►³**SCHEDULE**

Regulation 10(3)

Actuary's certificate

³Sch. inserted by reg. 6(3) of S.I. 2011/672 as from 6.4.11.

Given for the purposes of regulation 10(3) of the Pension Sharing (Pension Credit Benefit) Regulations 2000.

THIS CERTIFICATE IS SUBJECT TO THE NOTES BELOW

The name of the transferring scheme is:

The reference number of Her Majesty's Revenue and Customs for that scheme is:

The name of the receiving scheme is:

The reference number of Her Majesty's Revenue and Customs for that scheme is:

1. I certify that in my opinion, the transfer credits to be acquired for each person with pension credit rights under the receiving scheme in the categories of person covered by this certificate are, broadly, no less favourable than the rights to be transferred.

2. Where it is the established custom for discretionary benefits or increases in benefits to be awarded under the transferring scheme, I certify that in my opinion,

there is good cause to believe that the award of discretionary benefits or increases in benefits under the receiving scheme will (making allowance for any amount by which transfer credits under the receiving scheme are more favourable than the rights to be transferred) be, broadly, no less favourable.

In making this certification:

- I used these benefits:
- I used this data:
- I used these key actuarial assumptions to value the rights, transfer credits, any discretionary benefits and any discretionary increases in benefits:
- I used these documents:

The categories of person covered by this certificate are:-

Signature:

Date of signature:

Name:

Qualification:

Address:

Name of employer (if applicable):

Notes:

Phrases used in this certificate have the same meaning as in the Pension Sharing (Pension Credit Benefit) Regulations 2000 (“the 2000 Regulations”).

The certification in paragraph 2 was made in accordance with regulation 10(4) of the 2000 Regulations.

This certificate is valid only for the purposes of the 2000 Regulations.

This certificate must not be taken by the trustees or managers of the scheme as authority to make a transfer without the consent of each person with pension credit rights. It must also not be taken as a recommendation to make a transfer without each such person’s consent. The trustees or managers of the scheme need to satisfy themselves that making the transfer is consistent with their duties to the transferring persons and the remaining persons. The trustees of the scheme need to satisfy themselves that making the transfer is consistent with their responsibilities and powers under trust law.

The actuary is not expressing in this certificate an opinion on whether or not the amount of the transfer value is reasonable.

The actuary has taken account of the benefits accrued by the date of this certificate. The actuary has not taken account of any differences between the terms and conditions of any benefits that may accrue in the future under the transferring scheme and the receiving scheme. ◀

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the requirements relating to, and the indexation of, pension credit benefit.

Part I and regulation 1 provide for citation, commencement and interpretation of the Regulations.

Regulation 2 specifies the classes of occupational pension scheme which are not salary related.

Part II sets out requirements relating to pension credit benefit under occupational pension schemes.

Regulations 3 and 4 specify the circumstances in which pension credit benefit may be commuted.

Regulation 5 sets out how pension credit benefit may be secured.

Regulations 6 to 9 set out the alternatives to pension credit benefit which a scheme may provide.

Regulation 10 provides for the circumstances in which a person's pension credit rights may be transferred from one occupational pension scheme to another without that person's consent.

Regulation 11 specifies what the value of the alternatives to pension credit benefit must be.

Regulations 12 to 14 set out the requirements to be met where pension credit benefit or alternatives to pension credit benefit are secured by insurance policies or annuity contracts.

Regulation 15 describes further conditions on which liability for pension credit benefit or alternatives to pension credit benefit may be discharged.

Part III contains regulations 16 to 31 which deal with transfer values in respect of pension credit benefit.

Regulations 16 to 19 specify the circumstances in which transfer payments may be made in respect of safeguarded rights.

Regulations 20 to 22 describe requirements to be met by annuities, other pension arrangements, and eligible schemes in respect of transfer values.

Regulation 23 sets out the provisions relating to statements of entitlement.

Regulations 24 and 27 to 30 provide how cash equivalents are to be calculated and the circumstances in which they can be increased or reduced.

Regulation 25 specifies the period within which the trustees or managers of an occupational pension scheme are to notify the Occupational Pensions Regulatory Authority (OPRA) should they fail to comply with a transfer notice within the period prescribed by section 101J(1) of the Pension Schemes Act 1993.

Regulation 26 provides for OPRA to extend the statutory time limits for payment of cash equivalents on the application of the trustees or managers of an occupational pension scheme.

Regulation 31 specifies the maximum penalties which OPRA may impose in any case where OPRA is satisfied that a trustee or manager has not taken all reasonable steps to ensure that the obligation to provide the member with a statement of entitlement, or where OPRA is informed that the trustees or managers have failed to comply with a transfer notice within the period specified in section 101J(1) of the Pension Schemes Act 1993, is fulfilled.

Part IV contains regulations 32 to 35. Regulations 32 to 34 provide for how a pension, to which section 40(2) of the Welfare Reform and Pensions Act 1999 applies, is to be increased. Regulation 35 defines eligible pension credit rights.

An assessment of the cost to business of the provisions of the Welfare Reform and Pensions Act 1999, including these Regulations, is detailed in the Regulatory Impact Assessment for that Act. A copy of this Assessment has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Pensions on Divorce, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.